

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:05CV277-MU-02

JAMES LEWIS HAMILTON,                     )  
    Petitioner,                                 )  
  )  
            v.                                     )  
  )  
SHERWOOD McCABE, Supt.,                    )  
    Respondent.                                )  
\_\_\_\_\_  
  )

ORDER

THIS MATTER comes before the Court on petitioner's Petition Under 28 U.S.C. §2254 For Writ Of Habeas Corpus . . . ,” filed June 14, 2005.

By the subject Petition, the petitioner alleges that he was subjected to ineffective assistance of counsel in two instances; that he was subjected to prosecutorial misconduct in two instances; that the trial court erred in failing to give a particular lesser included instruction, in violation of his right to due process; and he was denied a right to a fair trial by virtue of his having been tried by eleven female and one male jurors.

After an initial review of the petitioner's Petition, the undersigned finds that the Attorney General for the State of North Carolina should be required to file an Answer, detailing the petitioner's allegations and responding to each of them.

**NOW, THEREFORE, IT IS HEREBY ORDERED:**

1. That no later than forty (40) days from the receipt of this Order, the Attorney General for the State of North Carolina shall file an Answer, directly responding to all of the petitioner's allegations as set forth above; and

2. That the Clerk shall send a copy of this Order to the petitioner and to the North Carolina Attorney General.

**SO ORDERED.**

**Signed: June 23, 2005**

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
Chief United States District Judge

